

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DEBORAH TORRES	:	
	:	CIVIL ACTION
	:	
vs.	:	
	:	No. 09-4439
CITY OF PHILADELPHIA PRISONS, ET AL.	:	

**ANSWER WITH AFFIRMATIVE DEFENSES OF DEFENDANTS CITY OF
PHILADELPHIA PRISON SYSTEM AND WARDEN BROWN**

Defendants, City of Philadelphia Prison System and Warden Brown (hereinafter, referred to as “answering defendants”), by and through their undersigned counsel, Jeffrey Simons, Assistant City Solicitor, hereby file an answer to the plaintiff’s complaint, together with affirmative defenses, and aver as follows:

1. Admitted, based on information and belief.
2. It is admitted only that the Philadelphia Prison System is a defendant in this lawsuit. The remaining allegations in this paragraph are denied.
3. It is admitted only that Warden Kenneth Brown is a defendant in this lawsuit. The remaining allegations in this paragraph are denied.
4. The allegations in this paragraph contain conclusions of law and/or plaintiff’s statement of the case and require no responsive pleading. To the extent a response is required, denied.
5. The allegations in this paragraph are denied as untrue, inaccurate and misleading. To the extent the allegations in this paragraph contain conclusions of law and/or plaintiff’s statement of the case, no responsive pleading is required. To the extent a response is required, denied. The allegations contained in this paragraph pertain to parties other

than answering defendants, and, therefore, require no response. To the extent a response is required, denied. By way of further answer, answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.

6. The allegations in this paragraph are denied as untrue, inaccurate and misleading. To the extent the allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, no responsive pleading is required. To the extent a response is required, denied. The allegations contained in this paragraph pertain to parties other than answering defendants, and, therefore, require no response. To the extent a response is required, denied.
7. The allegations in this paragraph are denied as untrue, inaccurate and misleading.
8. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.
9. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.
10. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.

11. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.
12. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.
13. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case and require no responsive pleading. To the extent a response is required, denied. By way of further answer, answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.
14. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case and require no responsive pleading. To the extent a response is required, denied.
15. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.

AS TO COUNT I

16. Answering defendants incorporate paragraphs 1 through 15 herein, as if the same were set forth at length.

17. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case and require no responsive pleading. To the extent a response is required, denied.

WHEREFORE, answering defendants deny that they are liable upon all the causes of action declared upon, and demand judgment in their favor, plus interest and costs.

AS TO COUNT II

18. Answering defendants incorporate paragraphs 1 through 17 herein, as if the same were set forth at length.
19. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case and require no responsive pleading. To the extent a response is required, denied.
20. Answering defendants have no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings, and/or damages alleged to have been sustained by the plaintiff, and the same are accordingly denied.

WHEREFORE, answering defendants deny that they are liable upon all the causes of action declared upon, and demand judgment in their favor, plus interest and costs.

AS TO COUNT III

21. Answering defendants incorporate paragraphs 1 through 20 herein, as if the same were set forth at length.
22. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, and as such, no responsive pleading is required. To the extent a response is required, denied.

23. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, and as such, no responsive pleading is required. To the extent a response is required, denied.
24. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, and as such, no responsive pleading is required. To the extent a response is required, denied.
25. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, and as such, no responsive pleading is required. To the extent a response is required, denied.
26. The allegations in this paragraph contain conclusions of law and/or plaintiff's statement of the case, and as such, no responsive pleading is required. To the extent a response is required, denied.

WHEREFORE, answering defendants deny that they are liable upon all the causes of action declared upon, and demand judgment in their favor, plus interest and costs.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Answering defendants assert all of the defenses, immunities, and limitations of damages available to it under the "Political Subdivision Tort Claims Act" and aver that plaintiff's

remedies are limited exclusively thereto. Act of Oct. 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. §8541 et seq.

THIRD AFFIRMATIVE DEFENSE

Answering defendants are immune from liability under the doctrine of qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the Statute of Limitations.

WHEREFORE, answering defendants deny that they are liable upon all the causes of action declared upon, and demand judgment in their favor, plus interest and costs.

Respectfully submitted,

JEFFREY S. SIMONS
Assistant City Solicitor
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

DATED: September 30, 2009

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I, JEFFREY S. SIMONS, hereby certify that on this date, the foregoing **ANSWER WITH AFFIRMATIVE DEFENSES OF DEFENDANTS CITY OF PHILADELPHIA PRISON SYSTEM AND WARDEN BROWN** was electronically filed and is available for viewing and downloading from the ECF system. A copy was also served upon the following individuals by first class mail, postage prepaid, as follows:

ROBERT A. HUBER
Huber & Palsir, LL
201 Spring Garden St., Suite 201
Philadelphia, PA 19123

JEFFREY S. SIMONS
Assistant City Solicitor

DATED: September 30, 2009